

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JOSEPH A. HOFER,	)	
PLAINTIFF,	)	CIVIL ACTION NO.
	)	
VS.	)	4:10-cv-2148
	)	
AD ASTRA RECOVERY SERVICES, INC.	)	
DEFENDANT.	)	JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff, Joseph A. Hofer, brings this action pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. seeking a declaration that Defendant's debt collection practices violate the FDCPA, and to recover damages for Defendant's violations of the FDCPA, and alleges:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction pursuant to 15 U.S.C. § 1692k(d) and 28 U.S.C. §1331.

2. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here and the Defendant transacts business here.

**PARTIES**

3. Plaintiff, Joseph A. Hofer, is a citizen of the State of Missouri, residing in the Eastern District of Missouri, from whom Defendant attempted to collect a delinquent consumer debt allegedly owed to Speedy Cash.

4. Defendant, Ad Astra Recovery Services, Inc., (hereinafter referred to as "Ad Astra") is a Nevada Corporation which acts as a debt collector, as that term is defined in § 1692a of the FDCPA, as it regularly uses the mails and/or telephone to collect or attempt to collect delinquent consumer debts, including delinquent consumer debts in the Eastern District of Missouri. Ad Astra Recovery Services, Inc. was acting as a debt collector as to the delinquent consumer debt it attempted to collect from Plaintiff. Ad Astra Recovery Services, Inc.'s Registered Agent is National Registered Agents, Inc., 300 B. East High Street, Jefferson City, MO 65101.

#### **FACTUAL ALLEGATIONS**

5. On or about July 9, 2009, Ad Astra began contacting Plaintiff in an attempt to collect a delinquent consumer debt owed to Speedy Cash for an alleged Payday Advance Loan. In the months following, Defendant attempted to contact Plaintiff by forwarding correspondence to his mailing address, which is 442 S. Gore Avenue, St. Louis, MO 63119, and on his personal cell phone number which is (314) 225-5278.

6. By August 1, 2010, Plaintiff had received dozens of recorded messages from Ad Astra on his personal cell phone regarding this account, and had received at least 2 separate pieces of correspondence at his current mailing address.

7. On August 19, 2010 one of Ad Astra's collectors who identified himself as Tom left a message for Plaintiff's supervisor (Marilyn Stanza) at his place of employment, Oak Grove Cemetery, requesting that "Marilyn Stanza return his call at (316) 941-5403."

8. Not knowing the person who left the message or the reason for the call, Ms. Stanza returned the call as requested later that on August 19, 2010. When she inquired about the reason for the call, Ad Astra's collector advised her that he was calling for employment verification with respect to Plaintiff. When Ms. Stanza further inquired about the reason that employment verification was being requested, Ad Astra's collector advised her that Mr. Hofer had completed an employment application, and he wanted to verify his employment with Oak Grove Cemetery. Ms. Stanza confirmed his employment, and the Ad Astra collector thanked her and hung up the phone.

9. Pursuant to §1692c(b) and except for those individuals identified therein, a debt collector may not communicate with any person, including a consumer's employer, in an effort to collect a debt without the prior consent of the consumer. No such consent was provided.

10. Ad Astra spoke with Plaintiff's supervisor, Marilyn Stanza, after numerous attempts were made to contact Plaintiff on his personal cell

phone line and through correspondence which was forwarded to his mailing address.

11. Section 1692b of the FDCPA provides a very limited exception to the no contact rule contained in §1692c(b). That exception involves acquiring location information about the consumer.

12. Although a debt collector's search for information concerning the consumer's location is expressly excepted from the ban on third party contacts as set forth in §1692c(b), a debt collector may not contact third parties under the pretense of gaining information already in its possession. See Federal Trade Commission Staff Commentary § 805(b)(2).

13. A debt collector, in attempting to collect a debt, cannot make false and deceptive statements to either the consumer or any third parties. When Ad Astra's collector advised Marilyn Stanza that he was seeking employment verification information about Plaintiff because Plaintiff had allegedly completed an employment application, he made a false and deceptive statement in an effort to collect a debt in violation of 15 U.S.C. §1692e(10).

14. Ad Astra violated §1692c(b) of the FDCPA since Plaintiff did not consent to Ad Astra contacting his employer and since Ad Astra did not legitimately need to acquire location information at that time.

15. Defendant's conduct caused Plaintiff embarrassment and loss of privacy.

**COUNT I - FAIR DEBT COLLECTION PRACTICES ACT**

16. Plaintiff repeats the allegations contained above as if the same were here set forth at length.

17. Defendant's conduct violated the FDCPA in the following ways:

- (a) By impermissibly seeking location information, and in the course of doing so, contacting Plaintiff's employer in violation of 15 U.S.C. §1692b(3); and
- (b) By contacting third parties without Plaintiff's prior consent, in violation of 15 U.S.C. §1692c; and
- (c) By using a false representation and deceptive means to collect or attempt to collect the debt and/or to obtain information concerning Plaintiff.

**WHEREFORE**, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Actual damages;
- B. Statutory damages pursuant to 15 U.S.C. § 1692k;
- C. Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k;
- D. For such other and further relief as may be just and proper.

**PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

/s/ Joseph A. Hofer

**Joseph A. Hofer**

**THE SWANEY LAW FIRM**

/s/ Robert T. Healey

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